

LANDSCAPE MAINTENANCE AGREEMENT

ARIZONA PROJECT F-028-1(18)

SUPERSTITION FREEWAY

(Junction State Route 87 to Gilbert Road, Unit II)

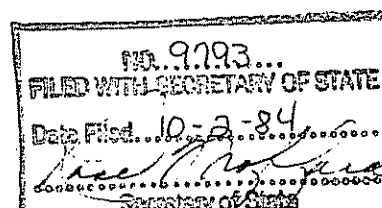
THIS AGREEMENT, made this 29TH day of June, 1984, pursuant to A.R.S. Sec. 11-951 through Sec. 11-954, and Sec. 9-672, by and between the Department of Transportation, Highways Division, an agency of the State of Arizona, thereunto duly authorized, hereinafter designated Department of Transportation and the City of Mesa, a municipal corporation, thereunto duly authorized, hereinafter designated as City.

WITNESSETH:

WHEREAS, it is to the mutual advantage of the Department of Transportation and the City to landscape certain areas within the right-of-way on the Superstition Freeway from Stapley Drive approximate roadway station 497+00 to Gilbert Road roadway station 549+50, a net distance of approximately 1.0 miles.

NOW THEREFORE, it is hereby mutually agreed by and between the Department of Transportation and the City, pursuant to the authority contained in A.R.S. Sec. 28-108 as follows:

1. The Department of Transportation will prepare plans for the landscaping and irrigation project and submit them to the Federal Highway Administration for approval.
2. Upon approval, the project will be constructed by the Department of Transportation using State funds and federal funds apportioned to the State of Arizona.
3. The City shall furnish and install necessary water services from existing water mains to the designated locations within the right-of-way from Stapley Drive approximate roadway station 497+00 to Gilbert Road roadway station 548+50 at the City established water service schedule rates, all at Department of Transportation expense.
4. The City shall furnish all water for landscape installation during the construction phase, and all water hereafter necessary to properly maintain the landscape between the right-of-way lines from Stapley Drive approximate roadway station 497+00 to Gilbert Road roadway station 549+50 all at City expense.
5. The Department of Transportation shall maintain the landscaping and irrigation system within the right-of-way from Stapley Drive approximate roadway station 497+00 to Gilbert Road roadway station 548+50.
6. The Department of Transportation shall furnish all electrical power necessary to maintain the landscaping within the right-of-way from Stapley Drive approximate roadway station 497+00 to Gilbert Road roadway station 548+50.



7. The City hereby agrees to construct and maintain the median landscaping and irrigation system on Gilbert Road within the Superstition Freeway right-of-way as approved by the Department of Transportation and the City will not make any changes, additions or deletions without written approval by the Department of Transportation.

8. The City hereby agrees to save and hold harmless the Department of Transportation, or any of its departments, agencies, officers or employees from all cost and damage incurred by any of the above and from any other damage to any person or property whatsoever, which is caused by an activity, condition, or event arising out of the performance or non-performance of any provision of this agreement by the City, any of its agents, or any of its independent contractors. The above cost incurred by the Department of Transportation or any of its departments, agencies or employees shall include in the event of an action, court costs, expenses of litigation and reasonable attorneys' fees. When any above cost, damage or other damage occurs as aforesaid, the City assumes the burden of proof that the activity, condition, or event did not cause such cost, damage or other damage.

9. This agreement shall be filed with the Secretary of State and shall become effective on the date of such filing.

10. Attached hereto are resolutions of the Department of Transportation and the City authorizing both entities to enter into this agreement, and a written determination by the City Attorney of Mesa that this agreement is in proper form and within the powers and authority granted to the City under the laws of this State.

11. The effective date of this agreement shall be upon filing with the Secretary of State and shall remain in full force and effect for a period of five (5) years from the effective date unless terminated earlier by mutual consent of the parties hereto or unless this agreement violates any Arizona law, rule or regulation, either now enacted or which may be enacted in the future. This agreement will be automatically renewed for successive periods of five (5) years unless the parties hereto mutually agree by formal amendment reflected herein to this agreement not less than one (1) month prior to the initial or renewed expiration date.

12. All parties are hereby put on notice that this Contract (Agreement) is subject to cancellation by the Governor, pursuant to Arizona Revised Statutes, Section 38-511.

IN WITNESS WHEREOF the parties have executed two copies of this agreement on the day and year herein written.

ARIZONA DEPARTMENT OF
TRANSPORTATION

CITY OF MESA, a municipal
corporation

By 
Chief Deputy State Engineer

By 
City Manager

STATE OF ARIZONA)
 : SS
County of Maricopa)

I, DORTHE DANA, CITY CLERK
of the City of Mesa, Arizona, do hereby certify that the following is
a true and correct extract of the minutes of the City Council meeting
held JUNE 25, 1984:

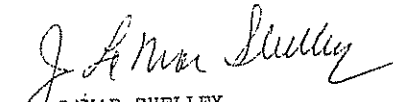
In Witness Whereof, I have hereunto set my hand and affixed
the Official Seal of the City of Mesa, Arizona. Done in Mesa, Arizona
this 29th day of June, 1984.

Dorthe Dana
DORTHE DANA, CITY CLERK

APPROVAL OF THE CITY ATTORNEY

I hereby state that I have reviewed the proposed intergovernmental agreement, between the DEPARTMENT OF TRANSPORTATION, HIGHWAYS DIVISION, STATE ENGINEER and the CITY OF MESA and declare this agreement to be in proper form and within the powers and authority granted under the laws of the State of Arizona.

DATED this 29th day of June, 1984.


J. LAMAR SHELLEY
The City Attorney


Project: F-028-1(18)
Section: Junction S.R. 87 to
Gilbert Road, Unit II

RESOLUTION

BE IT RESOLVED on this 6th day of September, 19 84,
that I, W. A. Ordway, as Director, ARIZONA DEPARTMENT OF
TRANSPORTATION, have determined that it is in the best interests
of the State of Arizona that the DEPARTMENT OF TRANSPORTATION,
acting by and through the Highways Division, enter into an
Intergovernmental Agreement with the City of Mesa for landscape
maintenance on certain areas within the right of way of the
Superstition Freeway situated between Stapley Drive and Gilbert
Road.

Therefore, authorization is hereby given to draft said Agreement
which, upon completion, shall be submitted for approval and
execution by the Chief Deputy State Engineer.

JAMES S. CREEDON, Deputy Director


for W. A. Ordway, Director
Arizona Department of
Transportation

JDC:ks

RESOLUTION NO. 5378

A RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF MESA, MARICOPA COUNTY, ARIZONA,
AUTHORIZING THE EXECUTION OF AN AGREEMENT
WITH THE ARIZONA DEPARTMENT OF
TRANSPORTATION.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF
MESA, MARICOPA COUNTY, ARIZONA, AS FOLLOWS:

Section 1: That the Landscape Maintenance
Agreement, Arizona Project F-028-1(18), Superstition Freeway
(Junction State Route 87 to Gilbert Road, Unit II) between
the Arizona Department of Transportation and the City of
Mesa is hereby approved.

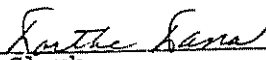
Section 2: That the City Manager is authorized and
directed, on behalf of the City of Mesa, to execute the
agreement and the City Clerk is authorized and directed to
attest to the signature of the City Manager thereon.

PASSED AND ADOPTED by the City Council of the City
of Mesa, Maricopa County, Arizona, this 25th day of June,
1984.

APPROVED:


Mayor

ATTEST:


City Clerk



OFFICE OF THE
Attorney General
TRANSPORTATION DIVISION
1275 WEST WASHINGTON
PHOENIX, ARIZONA 85007
(602) 255-1660

ROBERT K. CORBIN
ATTORNEY GENERAL

INTERGOVERNMENTAL AGREEMENT
DETERMINATION

A. G. Contract No. 84-407, which is an agreement between public agencies, has been reviewed pursuant to A.R.S. Sec. 11-952, as amended, by the undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State or its agencies under the laws of the State of Arizona.

No opinion is expressed as to the authority of the remaining parties, other than the State or its agencies, to enter into said agreement.

DATED this 26th day of September, 1984.

ROBERT K. CORBIN
Attorney General

A handwritten signature in cursive script, appearing to read "James R. Rogers".
Assistant Attorney General
Transportation Division